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UNITED
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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.16
20 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 5 (b)

ELIMINATION OF RACIAL DISCRIMINATION

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA

Draft resolution submitted by Ms. Attah, Mr. Eide, Mr. Guissé, Mr. Hakim, Mr. Hatano, Mr. Khalil, Ms. Ksentini, Mr. Maxim, Ms. Palley, Mr. Saboia, Mr. Sachar, Mr. Tian, Ms. Warzazi and Mr. Yimer

1992/... Monitoring the transition to democracy in South Africa

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/1 of 20 August 1991,

Noting resolution 1992/20 of 28 February 1992 of the Commission on Human Rights,

Recalling General Assembly resolutions 39/15 of 23 November 1984, 41/95 of 4 December 1986, 43/92 of 8 December 1988 and 45/84 of 14 December 1990,

Having considered the updated report (E/CN.4/Sub.2/1992/12 and Add.1) prepared by the Special Rapporteur, Mr. Ahm . Khalifa,

Convinced that the annual presentation of the list of institutions giving support to the South African regime contained in the addendum to the report of the Special Rapporteur has been of major importance in increasing the pressure which has led the Government of South Africa to start amending its racist policies,

Noting the statement by the Special Rapporteur that, in the light of recent events, the continued updating of the list would no longer serve the purpose for which it was intended,

Convinced of the need for the United Nations human rights bodies to contribute to the monitoring of the process of abolishing apartheid and that the Sub-Commission should also contribute to this task;

1. Expresses its profound gratitude to the Special Rapporteur, Mr. Ahmed Khalifa, for his considerable contribution to the cause of eliminating the policy of apartheid, and especially for the immense role played by the annual updated lists;

2. Recommends that a special rapporteur be appointed from among the members of the Sub-Commission to report on the progress towards democracy, equality and social justice in South Africa;

3. Recommends the following resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Taking note of resolution 1992/... of ... August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling its resolution 1992/3 of 20 July 1992,

Noting the statement of the Special Rapporteur, Mr. Ahmed Khalifa, in presenting his last report (E/CN.4/Sub.2/1992/12 and Add.1), that in the light of recent events the list should be discontinued,

Noting also that it is of paramount importance to monitor the process towards democracy and social justice in South Africa,

1. Expresses its appreciation to the Special Rapporteur, Mr. Ahmed Khalifa, for his considerable contribution to the cause of eliminating the policy of apartheid;

2. Expresses its thanks to all Governments and organizations which supplied the Special Rapporteur with information;

3. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Ms. Judith Sefi Attah with the task of presenting annually a report on the transition to democracy in South Africa, including:

(a) Steps taken in accordance with international human rights instruments to prevent violence between different groups in South Africa;

(b) Steps taken to investigate the alleged involvement of the South African security forces in fomenting violence and how this problem is being addressed;

(c) Steps taken to ensure equal political participation for all South Africans, including those removed under the apartheid system to the so-called homelands;

(d) Steps taken to ensure the enjoyment by all South Africans, without discrimination, of economic and social rights;

(e) An analysis of the obstacles preventing the democratization of South Africa and ways and means of eliminating them;

4. Requests the Secretary-General to extend to the Special Rapporteur all the assistance that she may require in the exercise of her mandate.

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UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.17
19 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH
THE SUB-COMMISSION HAS BEEN CONCERNED

Draft resolution submitted by Mr. Al-Khasawneh, Ms. Attah, Mr. Boutkevitch, Mr. Chernichenko, Mr. Despouy, Mr. Eide, Mrs. Forero Ucros, Mr. Guissé, Mr. Hakim, Mr. Hatano, Mr. Khalil, Mr. Maxim, Ms. Palley, Mr. Saboia, Mr. Sachar, Mr. Tian, Mrs. Warzazi and Mr. Yimer

1992/... Human rights and the environment

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1990/7 of 30 August 1990, in which it entrusted Ms. Fatma Zohra Ksentini with the task of undertaking a study on human rights and the environment,

Recalling also Commission on Human Rights resolution 1991/44 of 5 March 1991 in which the Commission endorsed the decision of the Sub-Commission, and Economic and Social Council decision 1991/244 of 31 May 1991, in which the Council approved the endorsement of Ms. Ksentini as Special Rapporteur to prepare a study on human rights and the environment,

Recalling further its resolution 1991/24 of 29 August 1991, in which it requested the Special Rapporteur to prepare for the Sub-Commission, at its forty-fourth session, a progress report on the subject,

1. Takes note with appreciation of the progress report on human rights and the environment (E/CN.4/Sub.2/1992/7 and Add.1) submitted by Ms. Ksentini pursuant to Sub-Commission resolution 1991/24 of 29 August 1991 and Commission on Human Rights decision 1992/110 of 28 February 1992;

2. Requests the Special Rapporteur to continue her study on human rights and the environment taking into account, inter alia, the comments made at the forty-fourth session of the Sub-Commission on her preliminary (E/CN.4/Sub.2/1991/8) and progress (E/CN.4/Sub.2/1992/7 and Add.1) reports, as well as developments in this field relevant to the study;

3. Also requests the Special Rapporteur to submit to the Sub-Commission, at its forty-fifth session, a second progress report containing additional information on and an analysis of decisions and views of international human rights organs and other relevant organs, as well as information on and an analysis of national law and practice, and to submit to the Sub-Commission, at its forty-sixth session, a final report which should include a set of conclusions and recommendations;

4. Requests the Secretary-General to invite Governments, United Nations bodies, the specialized agencies, intergovernmental and non-governmental organizations, indigenous peoples' organizations and international human rights organizations to provide the Special Rapporteur with information relevant to the preparation of her report;

5. Also requests the Secretary-General to provide the Special Rapporteur with all the assistance that she may require for the preparation of her study, and the necessary assistance to compile and analyse the information and documents collected;

6. Decides to consider the second progress report at its forty-fifth session under the agenda item entitled "Review of further developments in fields with which the Sub-Commission has been concerned";

7. Recommends the following draft decision to the Commission on Human Rights for adoption:

Human rights and the environment

The Commission on Human Rights, noting resolution 1992/... of ... August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the request of the Sub-Commission to Ms. Fatma Zohra Ksentini, Special Rapporteur on human rights and the environment, to prepare a second progress report containing additional information on and an analysis of decisions and views of Governments, United Nations bodies, the specialized agencies, intergovernmental and non-governmental organizations, indigenous peoples' organizations and international human rights organizations, as well as information on and an analysis of national law and practice. The Commission further endorses the request to the Secretary-General to provide the Special Rapporteur with all the assistance that she may require for the preparation of her study and the necessary assistance to compile and analyse the information and documents collected.

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UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.18
20 August 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection of
Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mrs. Attah, Ms. Chavez, Mr. Despouy, Mr. Eide, Mrs. Forero Ucros, Mr. Guissé, Mr. Hatano, Mr. Khalil, Mr. Maxim, Mr. Ramadahane, Mr. Saboia and Mrs. Warzazi

1992/... The situation of human rights in Somalia

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights and other human rights instruments,

GE.92-13375/0446K (E)

Bearing in mind Commission on Human Rights resolution 1991/25 of 5 March 1991, in which the Commission invited all Governments and international organizations to intensify their cooperation and assistance in world-wide efforts to address the serious problems and needs resulting from internal displacement,

Recalling its resolution 1991/29 of 29 August 1991, in which it stressed the importance of the international community ensuring the provision of urgent humanitarian assistance to the people of Somalia, and of effective international coordination to facilitate equitable distribution,

Recalling also Security Council resolution 767 (1992) of 27 July 1992 concerning the provision of humanitarian assistance to Somalia,

Gravely concerned by reports of massive violations of human rights, particularly extrajudicial executions and acts of torture committed by armed gangs,

Alarmed by the number of refugees who have left Somalia since January 1991 and by the fate of displaced and homeless persons,

1. Calls upon all the parties involved in this conflict to put an end to these serious violations of human rights and humanitarian law;

2. Expressly invites the international community to provide humanitarian assistance to the people of Somalia as a matter of great urgency and to establish a framework and effective means to facilitate equitable distribution;

3. Requests the Office of the United Nations High Commissioner for Refugees to ensure that adequate protection and resources are provided to refugees until their voluntary return and reinstallation can be assured.

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UNITED
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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.19
20 August 1992

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mrs. Chavez, Mr. Despouy, Mrs. Forero Ucros and Mr. Saboia

Translated from Spanish

1992/... Support for the restoration of democracy in Peru

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and other international legal instruments on the protection of human rights,

GE.92-13381/0447K (E)

Deeply concerned at the serious events that have taken place in Peru since 5 April 1992, when the President of the Republic dissolved he National Congress, altered the composition of the courts and suspended essential functions of the judiciary, thus seriously affecting the state of law and the rule of democracy in the country,

Noting furthermore, with deep alarm, the growing criminal activities of the terrorist groups Sendero Luminoso and Movimiento Revolucionario Tupac Amaru which, besides the 800 deaths they have caused between August 1991 and the present, have in recent months unleashed a wave of terror and indiscriminate violence that has already cost more than 50 lives and left nearly 300 people wounded among the civilian population,

Recalling the resolution passed on 6 April 1992 by the Permanent Council of the Organization of American States, calling an ad hoc meeting of Ministers for Foreign Affairs of the member countries of that organization to undertake an immediate and continuing examination of the changing situation in Peru,

Welcoming with satisfaction the resolutions 1-92 of 13 April 1992 and 2-92 of 18 May 1992 passed by the said ad hoc meeting, calling on the Government of Peru urgently to restore democratic order and, to that end, requesting it, inter alia, to establish a dialogue with representative political forces and take the necessary steps to guarantee full respect and enjoyment of the freedoms of assembly and association, speech, opinion and the press,

Taking note with satisfaction of the undertaking by the Government of Peru to restore institutional order and to hold general elections on 22 November 1992 to elect a constituent congress, ensuring that the elections are accompanied by every guarantee of the free expression of the popular will, and accepting monitoring by the Organization of American States,

1. Deeply deplores the events that have taken place in Peru and expresses its most serious concern at the serious effect they are having on the operation of the institutional machinery of representative democracy in Peru and throughout the region;

2. Expresses its deepest revulsion and indignation at the criminal activities of the terrorist groups Sendero Luminoso and Movimiento Revolucionario Tupac Amaru;

3. Endorses the call by the Permanent Council of the Organization of American States for the authorities to take all necessary steps to guarantee full respect and enjoyment of the freedoms of assembly and association, expression, opinion and the press;

4. Also endorses the call by the Permanent Council of the Organization of American States for democratic order to be urgently restored in Peru and for all activities affecting the enjoyment of human rights to cease;

5. Firmly supports the decision by the Organization of American States to keep the ad hoc meeting of Ministers for Foreign Affairs in session in order to ensure appropriate constant monitoring of the changing situation in Peru until representative democracy is fully restored in the country;

6. Hails the efforts of the Inter-American Commission on Human Rights to cooperate with the Peruvian authorities, and urges those authorities to provide the Commission with their fullest cooperation;

7. Takes note with interest of the undertaking by the Peruvian authorities to hold national elections on 22 November 1992 to choose a democratic constituent congress by means of an election to be accompanied by every guarantee of the free expression of the popular will and to be monitored by the Organization of American States;

8. Urges the Peruvian authorities to maintain a fruitful and constructive dialogue with all democratic political forces in the country in accordance with its undertakings and the request made of it by the Permanent Council of the Organization of American States;

9. Expresses its gratitude for the cooperation and information provided by the Government of Peru regarding the changing situation in that country;

10. Encourages the Peruvian authorities to continue the process of institutional normalization until the full enjoyment of human rights is attained and representative democracy is fully restored.

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UNITED
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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.20
20 August 1992

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. Bossuyt, Mr. Boutkevitch, Mrs. Chávez, Mr. Despouy, Mr. Eide, Mrs. Forero Ucros, Mr. Guissé, Mr. Hakim, Mr. Hatano, Mr. Joinet, Mr. Khalil, Mrs. Ksentini, Mr. Maxim, Mrs. Palley, Mr. Saboia, Mr. Sachar, Mrs. Warzazi and Mr. Yimer

1992/... Situation of human rights in El Salvador

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/11 of 26 August 1991,

Noting with satisfaction resolution 1992/62 adopted by the Commission on Human Rights on 3 March 1992 whereby it requested the Secretary-General to appoint an independent expert to provide assistance in human rights matters to the Government of El Salvador, consider the human rights situation in that country and the effects of the Peace Agreements on the effective enjoyment of human rights, and investigate the manner in which both parties apply the

recommendations contained in the final report of the Special Representative (E/CN.4/1992/32) and those made by the United Nations Observer Mission in El Salvador and the Committees established during the negotiating process,

Welcoming the fact that the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional signed the Peace Agreements on 16 January 1992 and thereafter initiated the process for their implementation, which may lead, in particular, to a substantial improvement in the human rights situation in that country,

Considering that the timetable set for the implementation of those Agreements is based on a close interrelation between the execution by both parties of the undertakings made, which is bound to generate mutual confidence in the existence of the will and ability to comply with them,

Taking into account that the Secretary-General in his report of 26 May 1992 (S/23999) maintains that the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional are to be commended for not having once broken the cease-fire and for complying with several of their undertakings, but at the same time noting that there have been some serious delays in implementing various provisions of the Agreements,

Appreciating the importance of the work carried out by the Secretary-General and his Personal Representative to assist each of the two parties in implementing the Agreements and enabling there to be effective monitoring by the United Nations Observer Mission in El Salvador,

Noting that, according to what has been reported by the Observer Mission, as a result of the implementation of the Agreements there has been a decrease in the number of complaints of human rights violations, but that the human rights situation still gives cause for concern,

Welcoming the fact that the Ad Hoc Commission, the Truth Commission and the National Commission for the Consolidation of Peace, set up in pursuance of the Agreements, are already in operation, which can help to improve the human rights situation and to strengthen national reconciliation,

Expressing its satisfaction that the Office of the Attorney-General for the Protection of Human Rights has recently been established in El Salvador, and regretting the serious attack committed against one of its staff on 31 July 1992,

Aware that the international community must attentively follow and support the efforts being made by the parties in El Salvador to consolidate peace, ensure respect for human rights and promote the reconciliation and the economic and social development of that country,

1. Commends the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional for the extremely important agreements reached by them and for the determination they have expressed to seek to comply with them faithfully and fully;

2. Welcomes the fact that El Salvador has achieved a reduction in the number of human rights violations, while regretting that the situation in regard to those rights continues still to give cause for concern, and expresses its hope that compliance with the Agreements will improve the situation;

3. Expresses its support for the work being done in the cause of the consolidation of peace and the protection of human rights by the Secretary-General, his Personal Representative and the members of the United Nations Observer Mission in El Salvador;

4. Urges the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nactional to abide scrupulously by all the Peace Agreements, particularly those relating to human rights and the democratization of the country;

5. Welcomes the fact that the parties have recognized the need to elucidate and deal with any cases of impunity reported, especially where respect for human rights is jeopardized;

6. Takes note of the fact that the Government of El Salvador has begun investigations to identify and punish the perpetrators of the attack against the member of the staff of the Office of the Attorney-General for the Protection of Human Rights, and urges it to carry them through to a successful conclusion;

7. Urges the international community to assist in the National Reconstruction Plan for El Salvador;

8. Offers its full support to the Independent Expert for El Salvador appointed by the Secretary-General.

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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.21
20 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. Eide, Mr. Maxim, Ms. Palley, Mr. Saboia, Mr. Sachar and Mr. Yimer

1992/... Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming its resolution 1991/12 of 26 August 1991, in which it decided to review at its forty-fourth session the matter of forced evictions as a gross and consistent pattern of human rights violations affecting large numbers of people,

Recalling that in resolution 1991/12 it drew the attention of the Commission on Human Rights to the need for immediate measures to be undertaken at all levels aimed at eliminating the practice of forced eviction,

Noting the view, put forth in the working paper on the right to adequate housing prepared by Mr. Rajindar Sachar, that the subject of forced evictions was complex and multifaceted and should be examined in detail by the

United Nations, particularly since that act was possibly the most blatant violation of the right to housing (E/CN.4/Sub.2/1992/15, para. 41),

1. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Recalling resolution 1991/12 of 26 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Also recalling its resolution 1992/10 of 2 February 1992, in which it took note with particular interest of General Comment No. 4 (1991) on the right to adequate housing (E/1992/23, annex III) adopted by the Committee on Economic, Social and Cultural Rights and the reaffirmed importance attached in this framework to respect for human dignity and the principle of non-discrimination,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity,

Concerned that, according to United Nations statistics, in excess of one billion persons throughout the world are homeless or inadequately housed, and that this number is growing,

Recognizing that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and in inadequate housing and living conditions,

Disturbed that forced evictions and homelessness intensify social conflict and inequality and invariably affect the poorest, most socially, economically, environmentally and politically disadvantaged and vulnerable sectors of society,

Aware that forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a range of actors, including, but not limited to, national Governments, local governments, developers, planners, landlords, property speculators, and bilateral and international financial institutions and aid agencies,

Emphasizing that ultimate legal responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 on international technical assistance measures (1990), adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international

agencies should scrupulously avoid involvement in projects which, inter alia, involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation,

Mindful of the questions concerning forced evictions included in the guidelines for States' reports (E/1991/23, annex IV) submitted in conformity with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights,

Noting with appreciation that the Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 on the right to adequate housing adopted on 12 December 1991 at its sixth session, considered that instances of forced evictions were, prima facie, incompatible with the requirements of the Covenant and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law,

Taking note of the observations of the Committee on Economic, Social and Cultural Rights at its fifth (1990) and sixth (1991) sessions, concerning forced evictions,

Taking note also of the inclusion of forced evictions as one of the primary causes of the international housing crisis in the working paper on the right to adequate housing, prepared by Mr. Rajindar Sachar (E/CN.4/Sub.2/1992/15),

Taking note further of Sub-Commission resolution 1992/... of ... August 1992,

1. Affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;

2. Urges Governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions;

3. Also urges Governments to confer legal security of tenure to all persons currently threatened with forced eviction and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups;

5. Requests the Secretary-General to transmit the present resolution to Governments, relevant United Nations bodies, including the United Nations Centre on Human Settlements, the specialized agencies, regional and intergovernmental organizations, and non-governmental organizations and community-based organizations, soliciting their views and comments;

6. Also requests the Secretary-General to compile an analytical report on the practice of forced evictions, based on an analysis of international law and jurisprudence and information submitted in accordance with the previous paragraph, and to submit his report to the Commission at its fiftieth session;

7. Decides to consider the analytical report at its fiftieth session, under item 12, entitled "question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories", and to determine how most effectively to continue its consideration of the issue of forced evictions.

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UNITED NATIONS

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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.22
20 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Draft resolution submitted by Mr. Al-Khasawneh, Ms. Attah, Mr. Boutkevitch, Mr. Chernichenko, Mr. Despouy, Mr. Eide, Ms. Forero Ucros, Mr. Guissé, Mr. Hakim, Mr. Hatano, Mr. Joinet, Mr. Khalil, Ms. Ksentini, Mr. Maxim, Mr. Merrills, Mr. Ramadhane, Mr. Saboia, Mr. Tian, Ms. Warzazi and Mr. Yimer

1992/... Promoting the realization of the right to adequate housing

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/26 of 29 August 1991 in which it entrusted Mr. Rajindar Sachar with the task of producing a working paper, for submission at its forty-fourth session, on the right to adequate housing with a view to determining how best to further both the recognition and the enforcement of this right,

Taking note of the preliminary conclusions contained in the working paper (E/CN.4/Sub.2/1992/15),

GE.92-13411/0448K (E)

Taking note also of the view expressed by the Special Rapporteur on the realization of economic, social and cultural rights in his first progress report (E/CN.4/Sub.2/1990/19) that virtually no analytical work had been carried out within the human rights organs of the United Nations directly concerning housing rights,

Encouraged by the adoption on 12 December 1991 of General Comment No. 4 (1991) on the right to adequate housing by the Committee on Economic, Social and Cultural Rights at its sixth session (E/1992/23, annex III),

Aware that General Comment No. 4 constitutes the first such comment adopted by the Committee on Economic, Social and Cultural Rights to examine a specific right contained in the International Covenant on Economic, Social and Cultural Rights,

Mindful of Commission on Human Rights resolution 1992/10 of 21 February 1992 in which the Commission, inter alia, took note with particular interest of General Comment No. 4 (1991) and Sub-Commission resolution 1991/26,

Welcoming the recommendation contained in the final report submitted by the Special Rapporteur on the realization of economic, social and cultural rights, Mr. Danilo Türk, encouraging the Sub-Commission to continue its practice of appointing special rapporteurs to study specific aspects of this category of rights (E/CN.4/Sub.2/1992/16, para. 206),

Deeply concerned that in excess of one billion persons do not enjoy the right to adequate housing and that in many States it is the already disadvantaged groups of society that are homeless or inadequately housed,

1. Expresses its appreciation to Mr. Rajindar Sachar for his working paper on the right to adequate housing, which outlines a range of issues requiring further analytical work by the United Nations human rights bodies;

2. Encourages all States to pursue effective policies and legislation aimed at creating conditions aimed at ensuring the full realization of the right to adequate housing of the entire population, concentrating on those vulnerable groups that are homeless or inadequately housed;

3. Decides to appoint Mr. Rajindar Sachar as Special Rapporteur on promoting the realization of the right to adequate housing, and to request the Special Rapporteur to carry out a two-year study on this issue;

4. Requests the Special Rapporteur to submit to the Sub-Commission, at its forty-fifth session, a progress report on the promotion of the realization of the right to adequate housing, taking into account the comments made in the discussion of his working paper at its forty-fourth session;

5. Encourages the Special Rapporteur to consult the widest possible variety of sources in the preparation of the progress report;

6. Requests the Secretary-General to invite Governments, United Nations bodies, the specialized agencies, intergovernmental and non-governmental organizations and community-based organizations to provide the Special Rapporteur with information relevant to the preparation of his report;

7. Also requests the Secretary-General to provide the Special Rapporteur with all the assistance that he may require to prepare his study and to compile and analyse the information and documents collected;

8. Decides to consider the first report at its forty-fifth session under the agenda item entitled, "The realization of economic, social and cultural rights".

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UNITED NATIONS

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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.23
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of Discrimination and Protection of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Eide, Mr. Joinet, Ms. Ksentini, Mr. Maxim, Ms. Palley and Mr. Sachar

1992/... Situation of human rights in the Islamic Republic of Iran

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of Commission on Human Rights resolution 1992/67 of 4 March 1992,

Recalling its resolution 1991/9 of 23 August 1991 and the other relevant resolutions of the General Assembly, the Commission and the Sub-Commission,

Noting that, in his report on the human rights situation in the Islamic Republic of Iran (E/CN.4/1992/34), the Special Representative Mr. Reynaldo Galindo Pohl, drew attention to the increasing number of executions,

Noting also that more than one hundred and fifty political prisoners were executed in May 1992,

Deeply concerned at the continuing violations of human rights by the Government of the Islamic Republic of Iran, namely summary and arbitrary executions, torture and other cruel, inhuman and degrading treatment, arbitrary arrests and detention, enforced or involuntary disappearances, lack of due process of law and fair trial and freedom of religion and expression,

Deploring the expulsion in March 1992 of the delegation of the International Committee of the Red Cross from the Islamic Republic of Iran despite an earlier agreement by the Government to allow the International Committee of the Red Cross to visit Iranian prisons, and deeply concerned at the Government's refusal to allow the International Committee of the Red Cross to resume these visits,

Gravely concerned at the rise in the number of summary executions following the recent anti-government demonstrations in cities such as Arak, Mashad and Shiraz, and at the arbitrary arrests of thousands of people during those demonstrations, attributed by the authorities to the mujahidin,

Disturbed by many aspects of the official treatment of Iranian women, including the officially announced arrest of one hundred and thirteen thousand people on charges of "dissemination of moral corruption and mal-veiling" in the year ending 2 August 1992,

Noting in particular that the situation of the Baha'i community in the Islamic Republic of Iran continues to be a matter of concern,

Recalling its resolutions 1990/8 of 30 August 1990 and 1991/9 of 23 August 1991 condemning the assassination of Professor Kazem Rajavi in Switzerland and deploring the apparent direct involvement of one or more official Iranian services in the killing,

Concerned at further assassinations and attempts on the lives of Iranian dissidents abroad, including an abortive attempt on the life of Massoud Rajavi, President of the National Council of Resistance of Iran, in December 1991,

1. Endorses the urgent call by the Special Representative in his report to the Government of the Islamic Republic of Iran to comply with international human rights standards;

2. Condemns the continuing grave violations of human rights by the Government of the Islamic Republic of Iran, especially:

(a) The use of excessive force to suppress anti-government demonstrations, including summary executions and arbitrary arrests;

(b) Executions, systematic torture and maltreatment of political prisoners;

(c) Stoning, torture and degrading treatment of citizens, especially women, in public;

(d) Renewed persecution of religious minorities and summary killings of Baha'is;

(e) Suppression of freedom of thought, expression and association;

3. Requests the Special Representative, in his next report to the General Assembly and the Commission on Human Rights, to include information available to him on executions, arrests and measures to suppress political opposition, including the formation of special paramilitary units, and any further information on the assassination of Professor Kazem Rajavi;

4. Supports continued international monitoring of the human rights situation in the Islamic Republic of Iran;

5. Requests the Secretary-General to inform the Sub-Commission at its forty-fifth session of relevant reports by other special rapporteurs or bodies in the field of human rights, as well as of steps which have been or are being taken by the General Assembly and the Commission on Human Rights to prevent violations of human rights in the Islamic Republic of Iran;

6. Decides to consider further the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'i, at its forty-fifth session.

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UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.24
20 August 1992

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of Discrimination
and Protection of Minorities
Forty-fourth session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Draft resolution submitted by Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Eide, Mrs. Forero Ucros, Mr. Guissé, Mr. Hakim, Mr. Hatano, Mr. Joinet, Mr. Khalil, Mrs. Ksentini, Mr. Maxim, Mrs. Palley, Mr. Saboia, Mr. Sachar, Mrs. Warzazi and Mr. Yimer

1992/... Question of human rights and states of emergency

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolution 1983/18 of 22 February 1983, in which the Commission requested the Sub-Commission to give further consideration to the study on the implications for human rights of situations known as states of siege or emergency, submitted by the Special Rapporteur, Mrs. Nicole Questiaux (E/CN.4/Sub.2/1982/15),

Recalling that in the same resolution the Commission requested the Sub-Commission to propose measures designed to ensure the respect throughout the world of human rights and fundamental freedoms in situations where states of siege or emergency existed, especially of the rights referred to in article 4, paragraph 2, of the International Covenant on Civil and Political Rights, which prohibits derogation from certain rights even in time of public emergency,

Recalling Economic and Social Council resolution 1985/37 of 30 May 1985 and Sub-Commission resolution 1983/28 of 6 September 1983 concerning the question of human rights and states of emergency,

Recalling that in its resolution 1985/32 of 30 August 1985 it requested the Special Rapporteur, Mr. Leandro Despouy, to draw up and update a list of countries which proclaimed or terminated a state of emergency each year and to prepare an annual report containing reliably attested information on compliance with the rules, national and international, guaranteeing the legality of the introduction of a state of emergency,

Recalling Commission on Human Rights resolution 1991/34 of 5 March 1991, in which the Commission, inter alia, invited the Sub-Commission to consider the question of the effectiveness of habeas corpus and similar remedies during states of emergency and to formulate suggestions thereon,

Having noted, at its thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third and forty-fourth sessions, the importance for the effective enjoyment of human rights of the principles concerning respect for the rules, national and international, guaranteeing the legality of the introduction of a state of emergency,

Noting the interest expressed by many countries in receiving technical assistance from the Special Rapporteur on states of emergency and the United Nations Secretariat under the programme of advisory services in the field of human rights, and the work already done by the Special Rapporteur in this field,

Noting also the need to strengthen the observance of all non-derogable human rights, as well as the legal guarantees enabling a remedy to be sought from the competent authorities,

Noting further that in some circumstances, such as situations of war, armed conflict or internal unrest, emergency measures are adopted without a state of emergency being officially proclaimed and that such measures have an impact on human rights which warrants thorough study by the Special Rapporteur,

Noting with satisfaction the growing cooperation of Governments with the Special Rapporteur and the need to continue to analyse the information received by the Special Rapporteur with the greatest care,

Stressing the importance for the Special Rapporteur of using all reliable information for updating his annual reports, including the information which is available in relevant databases,

1. Expresses its deep appreciation to the Special Rapporteur, Mr. Leandro Despouy, for his fifth annual report and the list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1992/23);

2. Also expresses its appreciation to Governments, competent United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, as well as competent university and academic institutions, that have submitted information and comments on the question of human rights and states of emergency, and invites them to continue to cooperate actively with the Special Rapporteur;

3. Recognizes the fundamental importance of the existence in each country of specific and effective national legislation enabling emergency situations to be dealt with in conformity with international norms and invites Governments that have not yet done so to consider the adoption of internal legislation consistent with the requirements of international instruments concerning states of emergency, as explained and developed in the Special Rapporteur's various reports;

4. Invites Governments to limit the introduction of states of emergency, particularly in the case of internal unrest, exclusively to situations sufficiently serious and exceptional to justify them, in order to avoid making the use of states of emergency commonplace and thus, possibly, perpetuating them;

5. Endorses the request of the Special Rapporteur (E/CN.4/Sub.2/1992/23, para. 22) to recommend that the Commission on Human Rights should propose the inclusion in the agenda of the forthcoming World Conference on Human Rights of an item entitled "Strengthening of protection of human rights during states of emergency";

6. Requests the Secretary-General, under the United Nations programme of advisory services in the field of human rights, to furnish assistance through the Special Rapporteur to States requesting it;

7. Invites the Special Rapporteur to continue the work with which he has been entrusted and to submit to the Sub-Commission, at its forty-fifth session, the next annual report and list updated on the basis of the information received and to update his present report so that the Commission on Human Rights, at its forty-ninth session, will have before it the most recent and accurate information available;

8. Also invites the Special Rapporteur to continue his work on the draft guidelines for the development of legislation on states of emergency and, in particular, to examine the question of non-derogable rights;

9. Further invites the Special Rapporteur to continue and expand his contacts and to hold consultations with appropriate technical institutions and experts with a view to receiving, storing and retrieving information relating to matters relevant to his mandate;

10. Requests the Secretary-General to provide the Special Rapporteur with all the assistance he may require to carry out his work successfully and, in particular, to process the information submitted to him in an effective way;

11. Decides to examine the updated report and list transmitted by the Special Rapporteur as a matter of priority under agenda item 10 (b), entitled "Question of human rights and states of emergency";

12. Recommends the following draft decision to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Noting resolution 1992/... of ... August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Recommends the inclusion in the agenda of the forthcoming World Conference on Human Rights of an item entitled "Strengthening of protection of human rights during states of emergency";

2. Recommends the following draft decision to the Economic and Social Council for adoption:

The Economic and Social Council, taking note of Commission on Human Rights decision 1993/... of ... February 1993 and of resolution 1992/... of ... August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the request by the Sub-Commission: (a) to Mr. Leandro Despouy, Special Rapporteur on human rights and states of emergency, to continue to update the list of states of emergency and to include in his annual report to the Sub-Commission and the Commission recommendations on inalienable or non-derogable rights, and (b) to the Secretary-General to provide the Special Rapporteur with all the assistance he may require to carry out his work, to maintain cooperation with the different sources of information and databases, and to process the information submitted to him in an effective way.

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UNITED
NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.25
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Draft resolution submitted by Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Despouy, Mr. Eide, Mrs. Forero Ucros, Mr. Guissé, Mr. Hatano, Mr. Joinet, Mr. Kalil, Ms. Ksentini, Mr. Maxim, Ms. Palley, Mr. Saboia, Mr. Sachar, Ms. Warzazi and Mr. Yimer

1992/... The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1989/13 of 31 August 1989, in which it decided to entrust Mr Theo van Boven with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms,

Recalling also its resolution 1991/25 of 29 August 1991, in which it requested the Special Rapporteur to submit to the Sub-Commission, at its forty-fourth session, a second progress report containing additional

information on and an analysis of relevant decisions and views of international human rights organs, as well as information on and an analysis of national law and practice, and to submit to the Sub-Commission, at its forty-fifth session, a final report which should include a set of conclusions and recommendations,

1. Takes note with appreciation of the second progress report (E/CN.4/Sub.2/1992/8) submitted by the Special Rapporteur, Mr. Theo van Boven, pursuant to its resolution 1991/25;

2. Requests the Special Rapporteur to continue his study, taking into account, inter alia, the comments made in the discussion on the preliminary and progress reports (E/CN.4/Sub.2/1990/10, E/CN.4/Sub.2/1991/7 and E/CN.4/Sub.2/1992/8), and to submit to the Sub-Commission, at its forty-fifth session, a final report which should include a set of conclusions and recommendations aimed at developing basic principles and guidelines with respect to the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms;

3. Requests the Secretary-General to provide the Special Rapporteur with all the assistance that he may require to prepare his final report.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.26
24 August 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Despouy, Mr. Eide, Ms. Forero Ucros, Mr. Guissé, Mr. Joinet, Ms. Palley, Mr. Saboia and Mr. Yimer

1992/... Situation of human rights in Haiti

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights,

Reaffirming that all Member States have a duty to promote human rights and to fulfil their obligations under the various applicable instruments,

Taking note of Commission on Human Rights resolution 1992/77 of 5 March 1992 relating to the situation of human rights in Haiti,

Recalling Commission on Human Rights resolution 1991/77 of 6 March 1991 relating to the situation of human rights in Haiti,

Recalling also General Assembly resolutions 46/7 of 11 October 1991 and 46/138 of 17 December 1991 relating to the situation of democracy and human rights in Haiti,

Taking note of resolution MRE/RES.3/92 which the Ministers for Foreign Affairs of the member countries of the Organization of American States adopted on 17 May 1992,

Deeply concerned about the serious events occurring in Haiti since 29 September 1991, which abruptly and violently interrupted the democratic process in that country, entailing the continued loss of human lives and violations of human rights,

Concerned also at the mass exodus of Haitian nationals fleeing the country,

Taking note of the statement made by Presidential Commission set up by President Aristide to initiate dialogue and negotiations with all national sectors with a view to the restoration of the rule of law and the establishment of a Government of national concord,

Aware that the Sub-Commission must keep a close watch on the situation of human rights in Haiti,

1. Strongly condemns the overthrow of the constitutionally elected President, Mr. Jean-Bertrand Aristide, the use of violence and the deterioration of the situation of human rights in that country;

2. Expresses its deep concern over the flagrant human rights violations committed by the illegal Governments set up following the coup d'état perpetrated on 29 September 1991;

3. Draws the attention of the international community to the fate of the Haitian nationals who are fleeing the country and requests its support for the efforts undertaken to assist them;

4. Appeals to all the parties concerned by the Haitian crisis to make the efforts at dialogue necessary for the restoration of the lawful Government and the re-establishment of democracy in Haiti;

5. Requests all the competent international agencies, in particular the United Nations and the Organization of American States, to undertake all necessary efforts in order to assist the people of Haiti;

6. Decides to follow closely the development of the situation in Haiti at its forty-fifth session.

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UNITED
NATIONS

E

Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.27
24 August 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-fourth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Draft resolution submitted by Ms. Chavez, Mr. Eide, Mrs. Forero Ucros, Mr. Hatano, Mr. Khalil, Mrs. Ksentini, Mr. Maxim, Mr. Saboia, Mr. Sachar, Mrs. Warzazi and Mr. Yimer

1992/... Human rights and extreme poverty

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind Commission on Human Rights resolution 1992/11 of 21 February 1992, in which the Sub-Commission was requested to accord priority to this question in its work and to report to the Commission at its forty-ninth session,

Recalling the report by Mr. Eduardo Suesún Monroy entitled "Method and plan of work for the study on human rights and extreme poverty" (E/CN.4/Sub.2/1991/18),

1. Decides to appoint Mr. Leandro Despouy as Special Rapporteur on the question of human rights and extreme poverty with responsibility for preparing

the study concerned on the basis of the aspects set out by the Commission on Human Rights in its resolutions 1989/10 of 2 March 1989, 1990/15 of 23 February 1990 and 1991/14 of 22 February 1991, bearing particularly in mind the approach defined in Commission resolution 1992/11, and requests him to submit a preliminary report on the question to the Sub-Commission at its forty-fifth session;

2. Requests the Secretary-General to continue his consultations on the topic of human rights and extreme poverty with Governments, specialized agencies, intergovernmental organizations and non-governmental organizations and to inform the Rapporteur of the conclusions of those consultations;

3. Also requests the Secretary-General to provide the Special Rapporteur with all necessary assistance for the fulfilment of his mandate including, as appropriate, assistance from consultants with specialized knowledge of the subject;

4. Requests the Special Rapporteur to contribute, as appropriate, to the transmittal of any useful information on the question of human rights and extreme poverty to the World Conference on Human Rights;

5. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Recalling its resolution 1992/11 of 21 February 1992,

Endorsing resolution 1992/... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ... August 1992,

Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling Commission on Human Rights resolution 1993/... of ... 1993 and resolution 1992/... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ... August 1992, entitled "Human rights and extreme poverty",

1. Approves the appointment of Mr. Leandro Despouy as Special Rapporteur on the question of human rights and extreme poverty with responsibility for preparing a study on this subject on the basis of the aspects set out by the Commission on Human Rights in its resolutions 1989/10 of 2 March 1989, 1990/15 of 23 February 1990 and 1991/14 of 22 February 1991, bearing particularly in mind the approach defined in Commission resolution 1992/11 of 21 February 1992;

2. Requests the Secretary-General to continue his consultations on the topic of human rights and extreme poverty with Governments, specialized agencies, intergovernmental organizations and non-governmental organizations and to inform the Rapporteur of the conclusions of those consultations;

3. Also requests the Secretary-General to provide the Special Rapporteur with all necessary assistance for the fulfilment of his mandate, including, as appropriate, assistance from consultants with specialized knowledge of the subject.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.28
24 August 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Draft resolution submitted by Mr. Bossuyt, Mrs. Chavez, Mr. Despouy, Mr. Eide, Mrs. Forero Ucros, Mr. Hatano, Mr. Khalil, Mr. Maxim, Mrs. Mbonu, Mrs. Palley and Mr. Yimer

1992/... Question of the impunity of perpetrators of violations of human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Geneva Conventions of 12 August 1949,

Convinced that the increasingly widespread practice of impunity for perpetrators of violations of human rights in various regions of the world is a fundamental obstacle to the observance of human rights,

Recalling its decision 1991/110 of 29 August 1991, entitled "Question of the impunity of perpetrators of violations of human rights", whereby it requested Mr. El Hadji Guissé and Mr. Louis Joinet to draft a working paper on this subject,

Having considered the guidelines proposed in the working paper (E/CN.4/Sub.2/1992/18) prepared by Mr. Guissé and Mr. Joinet,

Aware of the comments that have been made for a number of years on this subject within the framework of the special procedures of the Commission on Human Rights and by the Special Rapporteurs of the Sub-Commission,

1. Takes note with satisfaction of working paper E/CN.4/Sub.2/1992/18;

2. Decides to request Mr. Guissé and Mr. Joinet to draft a study on the impunity of perpetrators of violations of human rights in order, in particular, to determine the scale of the phenomenon of impunity and to propose measures to combat that practice;

3. Requests the Secretary-General to provide the Special Rapporteurs with any assistance required for them to be able to discharge their task;

4. Decides to consider the preliminary report to be prepared by the Special Rapporteurs at its forty-fifth session under a sub-item, entitled "Question of the impunity of perpetrators of violations of human rights", of the item entitled "The administration of justice and the human rights of detainees";

5. Recommends that the Commission on Human Rights adopt the following draft resolution:

The Commission on Human Rights,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Geneva Conventions of 12 August 1949,

Convinced that the increasingly widespread practice of impunity for perpetrators of violations of human rights in various regions of the world is a fundamental obstacle to the observance of human rights,

Recalling the comments that have been made for a number of years on this subject by, in particular, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on summary or arbitrary executions and the Special Rapporteur on the question of torture, and by the Special Rapporteurs of the Sub-Commission,

1. Takes note with satisfaction of the working paper (E/CN.4/Sub.2/1992/18) prepared by Mr. Guissé and Mr. Joinet pursuant to the Sub-Commission's decision 1991/110 of 29 August 1991;

2. Endorses the Sub-Commission's decision to request Mr. Guissé and Mr. Joinet to draft a study on the impunity of perpetrators of violations of human rights in order, in particular, to determine the scope of the phenomenon of impunity and to propose measures to combat that practice;

3. Requests the Secretary-General to provide the Special Rapporteurs with any assistance required for them to be able to discharge their task;

4. Recommends that the Economic and Social Council adopt the following draft decision:

The Economic and Social Council, taking note of resolution 1993/... adopted by the Commission on Human Rights on ... February 1993, approves the decision of the Commission to endorse the Sub-Commission's decision to request Mr. Guissé and Mr. Joinet to draft a study on the impunity of perpetrators of violations of human rights in accordance with the Sub-Commission's resolution 1992/... of ... August 1992, and also approves the Commission's request to the Secretary-General to provide the Special Rapporteurs with any assistance required for them to be able to discharge their task.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.29
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Despouy, Mr. Eide, Mr. Guissé and Ms. Palley

1992/... Situation in Cambodia

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

GE.92-13539/0502K (E)

Recalling its resolution 1991/8 of 23 August 1991 and Commission on Human Rights decision 1992/102 of 21 February 1992,

Taking note of Security Council resolutions 745 (1992) of 28 February 1992 and 766 (1992) of 21 July 1992,

Welcoming the signature of the Paris Agreement on a Comprehensive Political Settlement of the Cambodia Conflict on 23 October 1991,

Convinced that Cambodia's tragic past requires special and concrete measures to assure respect for the human rights and fundamental freedoms of all persons,

Convinced also that the international community has a responsibility to continue to support Cambodia in the field of human rights,

1. Calls upon all parties to the Paris Agreements to fully implement all aspects of these Agreements;

2. Expresses its concern that one of the parties, the Khmer Rouge, has shown reluctance in complying with the Agreements, and calls for appropriate countermeasures by the international community should it continue its lack of cooperation;

3. Welcomes the efforts undertaken to date by the United Nations Transitional Authority in Cambodia to foster an environment in which respect for human rights can be ensured, in particular the development and dissemination of a human rights education programme at all levels of Cambodian society;

4. Underlines the importance of the reconstruction and rehabilitation of the legal and judicial systems in Cambodia to be undertaken in parallel with human rights advocacy programmes;

5. Encourages United Nations agencies, other international governmental organizations and non-governmental organizations to participate actively in human rights activities in Cambodia;

6. Expresses its support for the activities of indigenous human rights organizations in Cambodia;

7. Welcomes the initiative to convene an international symposium on human rights in Cambodia in December 1992 and invites the Secretary-General to ensure wide circulation of the conclusions of that symposium;

8. Invites the Secretary-General to develop and implement, in collaboration with the United Nations Transitional Authority in Cambodia, long-term comprehensive programmes of technical assistance and advisory services which would contribute to a lasting improvement in the enjoyment of human rights and fundamental freedoms in Cambodia;

9. Also invites the Secretary-General to report to the Commission on Human Rights, at its forty-ninth session, on the activities undertaken and the progress made in this field.

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UNITED
NATIONS

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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.30
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 18

PROTECTION OF MINORITIES

Draft resolution submitted by Mr. Bossuyt, Mr. Despouy, Mr. Hatano, Mr. Khalil, Ms. Ksentini, Mr. Maxim, Ms. Mbonu, Mr. Saboia, Mr. Tian and Mr. Yimer

1992/.. Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1988/36 of 1 September 1988, 1989/44 of 1 September 1989, 1990/5 of 23 August 1990 and 1991/22 of 28 August 1992;

Reiterating its concern at the serious problems arising throughout the world from inter-ethnic and intergroup conflicts involving, in particular, minorities,

Convinced that the Sub-Commission can best contribute to preventing large-scale human rights problems in situations involving minorities by studying and proposing positive measures for the protection of minorities and for the peaceful and constructive solution of problems concerning them within the States in which they live,

Having considered the second progress report submitted by the Special Rapporteur, Mr. Asbjørn Eide, at its forty-fourth session (E/CN.4/Sub.2/1992/37 and Adds.1 and 2),

1. Expresses its profound appreciation to the Special Rapporteur for the thorough analysis and the application made of the guidelines established for the study;

2. Affirms the need to assign high priority and adequate resources to the collection and evaluation of relevant information;

3. Requests the Secretary-General to prepare, with the cooperation of the Special Rapporteur, the technical meeting of experts on minorities, as provided for in decision 92/112 of 3 March 1992 of the Commission on Human Rights, with a view to it taking place at the end of 1992;

4. Requests the Special Rapporteur to continue his consultations with States, which may also include visits to countries at the invitation of Governments, as provided for in Commission decision 1992/112;

5. Also requests the Special Rapporteur, in finalizing his report, to take into consideration the views expressed and the comments made by members of the Sub-Commission and the replies submitted by Governments, specialized agencies and non-governmental organizations,

6. Further requests the Special Rapporteur to submit his final report to the Sub-Commission at its forty-fifth session;

7. Requests the Secretary-General to give the Special Rapporteur all the assistance he may require to enable him to complete his study successfully.

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UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.31
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH
THE SUB-COMMISSION HAS BEEN CONCERNED

Draft decision submitted by Mr. Bossuyt, Mr. Despouy, Ms. Forero Ucros, Ms. Palley, Mr. Saboia, Ms. Warzazi and Mr. Yimer

1992/... Final report on the study on problems and causes of discrimination against HIV-infected people or people with AIDS

At its ... meeting, on ... August 1992, the Sub-Commission took note with deep appreciation of the report on the study on problems and causes of discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1992/10), submitted by Mr. Luis Varela Quirós. The Sub-Commission, taking into account the observations made by the Special Rapporteur when introducing his report, in particular concerning the material and submissions that the Special Rapporteur was not able to include in his report, decided, without a vote, to request the Special Rapporteur to complete his work and to submit his final report to the Sub-Commission at its forty-fifth session and to request the Secretary-General to give the

Special Rapporteur any assistance that he might require to accomplish his work; it also requested the Special Rapporteur to take into account in the preparation of his final report the views expressed in the debate on his report at its forty-fourth session; it further decided to examine the final report at its forty-fifth session under agenda item 4, entitled "Review of further developments in field with which the Sub-Commission has been concerned".

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UNITED
NATIONS

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.32
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Draft resolution submitted by Mr. Alfonso Martínez, Ms. Atcah, Mr. Chernichenko, Mrs. Daes and Mr. Hatano

1992/... Draft universal declaration on indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1985/22 of 29 August 1985, in which it endorsed the decision of the Working Group on Indigenous Populations to emphasize its standard-setting activities, with the aim of producing a draft declaration on indigenous rights which might be proclaimed by the General Assembly,

Recalling also its resolution 1991/30 of 29 August 1991, in which it expressed its appreciation to the Working Group for the significant and substantive progress made at its ninth session in carrying out its standard-setting mandate, and recommended that the Working Group be authorized to meet for 10 working days prior to the forty-fourth session of the Sub-Commission for the purpose of continuing the substantial progress made towards the completion of the draft declaration in consultation with Governments and organizations of indigenous peoples,

GE.92-13633/0565K (E)

Bearing in mind resolution 1992/44 of 3 March 1992 of the Commission on Human Rights in which the Commission welcomed resolution 1991/30 of the Sub-Commission,

Convinced that the Working Group can fulfil its standard-setting task only if it enjoys the greatest possible direct participation of and consultation with interested Governments and intergovernmental and non-governmental organizations and, in particular, with representatives of indigenous peoples,

Emphasizing the decision of the Working Group at its first session that both English and Spanish are indispensable as working languages,

Reiterating the importance of taking further measures to ensure that the activities of the Working Group are better known in every country, in accordance with Commission on Human Rights resolution 1983/23 of 4 March 1983, as well as measures to make information on human rights standards and machinery available to indigenous peoples in their own languages,

Noting with appreciation and satisfaction the revised working paper on the text of the draft declaration (E/CN.4/Sub.2/1992/28) prepared by the Chairperson-Rapporteur of the Working Group, Mrs. Erica-Irene Daes, as well as the report and recommendations of the Working Group on its tenth session (E/CN.4/Sub.2/1992/33),

Welcoming the concrete proposals and recommendations submitted to the Working Group by Governments, intergovernmental organizations and organizations of indigenous peoples,

Reaffirming its deep satisfaction at the continued and increased constructive participation of representatives of observer Governments, indigenous peoples, specialized agencies and non-governmental organizations in the annual sessions of the Working Group, and at the efforts of the Chairperson-Rapporteur, to encourage and promote further dialogue between Governments and indigenous peoples at the national level in various parts of the world,

Convinced of the urgent need to promote and protect the rights of indigenous peoples, including by means of a continued and comprehensive review of developments in this field, as well as through the development and application of standards,

1. Expresses its appreciation to the Working Group on Indigenous Populations and especially to its Chairperson-Rapporteur, Mrs. Erica-Irene Daes, for the significant further progress made at its

tenth session in carrying out its standard-setting mandate, in particular the completion of the first reading of the text of the draft universal declaration of the rights of indigenous peoples (E/CN.4/Sub.2/1992/33, annex I);

2. Endorses the plan adopted by the Working Group in the conclusions and recommendations contained in its report (E/CN.4/Sub.2/1992/33, chap. VI) for the completion of the second reading of the text of the draft declaration at its eleventh session and the possible submission of the draft declaration to the Sub-Commission at its forty-fifth session;

3. Welcomes the contributions made by Governments, individuals, indigenous peoples, intergovernmental and non-governmental organizations to the United Nations Voluntary Fund for Indigenous Populations, which was able to facilitate the participation of a large number of representatives of indigenous peoples in the tenth session of the Working Group, and appeals for continuing and increased financial support for the activities of the Fund;

4. Appeals once again to Governments and non-governmental organizations to consider making contributions to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, with the aim of supporting projects of direct benefit to indigenous peoples, including providing information and training directly to indigenous organizations and communities;

5. Recommends that the Chairperson-Rapporteur of the Working Group, Mrs. Erica-Irene Daes, be entrusted with the task of further elaborating the paragraphs of the draft universal declaration which were agreed upon at second reading and circulating these paragraphs to the members of the Working Group for their comments and suggestions;

6. Invites the Working Group to make written recommendations to the Sub-Commission on ways of ensuring full indigenous participation in the consideration of the draft declaration by higher bodies of the United Nations, as well as on the eventual implementation of the declaration, in particular as this concerns the future role of the Working Group;

7. Requests the Secretary-General:

(a) To transmit the report of the Working Group on its tenth session to Governments, indigenous peoples, and intergovernmental and non-governmental organizations, as soon as possible after the present session of the Sub-Commission, for written comments and suggestions on the draft universal declaration;

(b) To transmit the revised and reorganized text of the draft declaration, prepared pursuant to paragraph 5 of the present resolution, to Governments, indigenous peoples, and intergovernmental and non-governmental organizations well in advance of the eleventh session of the Working Group;

(c) To ensure that all meetings of the Working Group at its eleventh and future sessions are provided with interpretation and documentation in both English and Spanish;

(d) To continue to organize regional training courses for indigenous peoples on the United Nations, human rights and indigenous peoples' rights, especially in Latin America, Asia and the Pacific regions;

(e) To seek the necessary resources to convene at least one of the future sessions of the Working Group in Latin America, Asia or the Pacific Region;

(f) To give all necessary assistance to the Working Group in discharging its tasks, including more complete and thorough dissemination of information about its activities to indigenous peoples in every country, including all organizations that have participated in the sessions of the Working Group, in order to encourage their continued and wider participation;

8. Expresses the sincere hope that the Department of Public Information of the United Nations Secretariat will make every effort to develop a more comprehensive programme of translating and publishing basic human rights instruments, including the declaration on the rights of indigenous peoples, into indigenous languages and to approve systematic coverage of the Working Group by the Press Unit in Geneva of the Working Group's meetings;

9. Recommends that the reports of the Working Group be made available to the Commission on Human Rights and to the Economic and Social Council at each of their sessions;

10. Regrets the delay in the submission of the second substantive report on transnational investments and operations on the lands of indigenous peoples by the Transnational Corporations and Management Division of the United Nations Secretariat, and reaffirms the great importance it attaches to the continuing refinement, expansion and improvement of the database pursuant to its resolutions 1989/35 of 1 September 1989 and 1990/26 of 31 August 1990, and invites the Transnational Corporation and Management Division to submit annual reports summarizing the information received together with analyses, conclusions and recommendations;

11. Expresses its appreciation to the States participating in the Conference on Security and Cooperation in Europe for their agreement that human rights and fundamental freedoms apply fully and without discrimination to indigenous peoples;

12. Authorizes the Chairperson-Rapporteur, of the Working Group, Mrs. Erica-Irene Daes, to continue to monitor the relevant activities of the Conference on Security and Cooperation in Europe and other regional organizations in this field, with a view to encouraging the consistency of evolving standards;

13. Welcomes the holding of the First World Indigenous Youth Conference at Quebec City, Canada, in July 1992 and looks forward with great interest to the Second World Indigenous Youth Conference at Darwin, Australia, in 1993, and expresses the hope that youth will play a growing and more dynamic role in the activities of the United Nations in this field;

14. Also welcomes the reports and recommendations of the Meeting of Experts to review the experience of countries in the operation of schemes of internal self-government for indigenous peoples held at Nuuk, Greenland (E/CN.4/1992/42) and the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples held at Santiago, Chile (E/CN.4/Sub.2/1992/31), and recommends to the Commission on Human Rights that it approve the publication and widest possible distribution of these reports as part of the World Public Information Campaign for Human Rights;

15. Recommends that future United Nations seminars and expert meetings on indigenous issues continue to be convened in regions and countries where there are the greatest numbers of indigenous peoples, and that they continue to involve on an equal footing, experts nominated by organizations of indigenous peoples and experts nominated by Governments;

16. Expresses its profound concern over the inadequacy of the resources which are currently allocated to its meetings and related activities and appeals to the Secretary-General to remedy this situation, in particular through the recruitment of indigenous professionals, and to consider the establishment of an independent unit of the Centre for Human Rights on indigenous peoples, in particular during the International Year for the World's Indigenous People;

17. Decides to examine these issues at its forty-fifth session as a matter of high priority, under the agenda item entitled, "Discrimination against indigenous peoples";

18. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution 1992/... of ... August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to recommend to the Economic and Social Council:

(a) That it approve the publication of the reports and recommendations of the meeting of Experts to review the experience of countries in the operation of schemes of internal self-government for indigenous peoples (E/CN.4/1993/42) and the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples and the Environment (E/CN.4/Sub.2/1992/31) as part of the World Public Information Campaign for Human Rights;

(b) That it authorize the Working Group on Indigenous Populations to meet for 10 working days prior to the forty-fifth session of the Sub-Commission for the purpose of completing the second reading of the draft declaration on the rights of indigenous peoples, and that these meetings be provided with interpretation services; that members of the Working Group meet in closed session for 5 days prior to the eleventh session of the Working Group in order to consider the comments and suggestions received from Governments, indigenous peoples, intergovernmental and non-governmental organizations, and to review the structure of the draft declaration and identify remaining difficulties, gaps or ambiguities in the text and that the reports of the tenth and future sessions of the Working Group be issued as sales publications to ensure that they are given the widest possible distribution;

(c) That it recommend to the General Assembly that the United Nations Voluntary Fund for Indigenous Populations be authorized, as a secondary priority, to assist indigenous participation in other relevant United Nations meetings, such as meetings of human rights treaty bodies or working groups which might be created by the Commission on Human Rights for further consideration of the draft declaration on the rights of indigenous peoples."

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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.33
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Draft resolution submitted by Mr. Alfonso Martínez, Ms. Attah, Mr. Chernichenko, Ms. Daes and Mr. Hatano

1992/... International Year for the World's Indigenous People

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion,

GE.92-13555/0500K (E)

Recalling General Assembly resolution 45/164 of 18 December 1990 proclaiming 1993 as International Year for the World's Indigenous People, and welcoming General Assembly resolution 46/128 of 17 December 1991 adopting the theme "Indigenous people - a new partnership" and the Programme of activities for the International Year for the World's Indigenous People;

Recalling also Economic and Social Council resolution 1988/35 of 27 May 1988 encouraging all States to ensure that educational and informational activities, including national celebrations, give an accurate interpretation of history and do not perpetuate or justify theories of racial superiority or the subjugation of indigenous or other peoples,

Convinced that all United Nations operational bodies and specialized agencies should make practical contributions to protecting the rights and improving the conditions of indigenous peoples through direct cooperation with organizations and communities of indigenous peoples, particularly in the developing countries;

Mindful of the recommendations made in the second working paper (E/CN.4/Sub.2/1991/39) submitted by Mr. Asbjørn Eide and Ms. Christy Mbonu,

Taking account of the report, and in particular the recommendations, of the Working Group on Indigenous Populations on its tenth session (E/CN.4/Sub.2/1992/33) and the relevant discussions, proposals and conclusions of the technical meetings convened by the Coordinator of the International Year for considering matters of special interest to the indigenous peoples,

Taking account also of the conclusions of the First World Indigenous Youth Conference, held at Quebec City, Canada, in July 1992, and of the importance of strengthening the role of indigenous youth in world affairs,

Noting that the World Conference on Human Rights will take place during the International Year for the World's Indigenous People and that there is an imperative need for the Conference to consider, inter alia, issues related to the rights of indigenous peoples,

1. Emphasizes the fundamental importance of the effective participation of indigenous peoples in every aspect of decision-making concerning the International Year for the World's Indigenous People at the national, regional and international levels;

2. Appeals with a sense of urgency to Governments, intergovernmental and non-governmental organizations, and international educational and business institutions, to contribute generously to the voluntary fund established to support United Nations projects and activities for the International Year.

3. Authorizes the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Mrs. Erica-Irene Daes, to represent the Sub-Commission at the opening ceremonies for the International Year in New York;

4. Urges the Preparatory Committee for the World Conference on Human Rights to consider convening a special preparatory meeting for indigenous peoples early in 1993;

5. Recommends that the Preparatory Committee for the World Conference on Human Rights ensures that indigenous peoples are able to participate effectively in the Conference without regard to consultative status, and also recommends that the Chairperson-Rapporteur of the Working Group on Indigenous Populations be invited to participate in the Conference in her capacity as Chairperson-Rapporteur of the Working Group;

6. Recommends that the United Nations University establish affiliations with indigenous educational institutions and that United Nations International Schools invite indigenous youth to participate in their programmes of instruction, so as to build awareness of indigenous peoples among non-indigenous youth;

7. Reaffirms the importance of the expert evaluation of the International Year by Ms. Christy Mbonu and expresses the hope that this will be taken into account by the Coordinator of the International Year within the framework of paragraph 8 of Commission on Human Rights resolution 1992/45 of 3 March 1992 and paragraph 12 of General Assembly resolution 46/128;

8. Recommends that Ms. Mbonu be invited to participate in the opening ceremonies for the International Year in New York;

9. Requests the Secretary-General to draw the present resolution to the attention of the Coordinator of the International Year, the Chairperson of the Preparatory Committee for the World Conference on Human Rights, the United Nations University and United Nations International Schools.

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UNITED
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Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.34
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Draft resolution submitted by Mr. Alfonso Martínez, Ms. Attah,
Mr. Chernichenko and Mr. Hatano

1992/... Cultural and intellectual property of indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/32 of 29 August 1991, in which it decided to entrust Mrs. Erica-Irene Daes, as Special Rapporteur, with the task of preparing a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples,

Reiterating its concern at the extensive international traffic in indigenous cultural property, which undermines the ability of indigenous peoples to pursue their own political, economic, social, religious and cultural development in conditions of freedom and dignity,

Conscious that indigenous peoples continue to experience difficulties in utilizing national and international mechanisms for the recovery of their

cultural property because, inter alia, their own laws defining cultural property and forbidding its alienation are not documented or respected,

Welcoming the concise report of the Secretary-General on intellectual property of indigenous peoples (E/CN.4/Sub.2/1992/30), prepared pursuant to its resolution 1991/31,

Mindful of the conclusions and recommendations of the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples and the Environment (E/CN.4/Sub.2/1992/31) concerning the intellectual property of indigenous peoples,

Aware of the importance attached by the United Nations Conference on Environment and Development to the traditional knowledge of indigenous peoples,

Guided by the conclusions and recommendations of the tenth session of the Working Group on Indigenous Populations (E/CN.4/Sub.2/1992/33) based, in particular, on the relevant discussions of the Working Group at its ninth and tenth sessions,

Convinced that there is a relationship, in the laws or philosophies of indigenous peoples, between cultural property and intellectual property, and that the protection of both is essential to the indigenous peoples' cultural and economic survival and development,

Reaffirming the important catalytic role to be played by the Working Group on Indigenous Populations within the United Nations system in finding ways for all bodies and specialized agencies to contribute to the promotion and protection of the rights of indigenous peoples within their respective areas of competence,

Believing that the United Nations can make a significant contribution to the recognition, promotion, and restoration of the rights of indigenous peoples by securing respect for these peoples' control and full enjoyment of their own cultural, religious, literary, and scientific achievements,

1. Welcomes, inter alia, decision 1992/... of the Economic and Social Council, approving its recommendation that Mrs. Erica-Irene Daes be appointed as Special Rapporteur, to prepare a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples;

2. Requests the Special Rapporteur to include in her study, inter alia, a comprehensive analysis of the laws and traditions of indigenous peoples with respect to the definition, ownership and control of cultural property, and preliminary views on the feasibility of developing a United Nations manual of indigenous laws in this field;

3. Recommends that the Special Rapporteur also include a consideration of the relationship between indigenous cultural and intellectual property, as well as recommendations for further research and action on intellectual property;

4. Also recommends that the title of the study should be revised to "Protection of the cultural and intellectual property of indigenous peoples";

5. Reaffirms that the study should be prepared in direct cooperation with indigenous peoples, and authorizes the Special Rapporteur to collect relevant information and data from Governments, specialized agencies, in particular the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), intergovernmental organizations and non-governmental organizations, as well as indigenous peoples, organizations and communities;

6. Invites UNESCO and WIPO to contribute to the work of the Special Rapporteur in their respective areas of competence;

7. Urges the United Nations Development Programme (UNDP) and other competent United Nations bodies and specialized agencies to give priority consideration to projects aimed at strengthening indigenous peoples' own capacities for ecological and medical research, studies and for improving their control over research conducted within their territories;

8. Requests the Secretary-General to give the Special Rapporteur all the assistance she may require to complete these tasks successfully.

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UNITED
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Economic and Social Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.35
24 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Draft decision submitted by Mr. Alfonso Martínez, Ms. Attah, Mr. Chernichenko, Mrs. Daes and Mr. Hatano

1992/... Study on treaties, agreements and other constructive arrangements between States and indigenous populations

At its ... meeting, on ... August 1992, the Sub-Commission, recalling its resolutions 1989/38 of 1 September 1989 and 1990/28 of 31 August 1990 and its decision 1991/111 of 29 August 1991, took note of the first progress report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1992/32) submitted by Mr. Miguel Alfonso Martínez, regretting that the Special Rapporteur could not submit it on time to the tenth session of the Working Group on Indigenous Populations and decided, without a vote, to request the Special Rapporteur to submit a second progress report on the study to the Working Group at its twelfth session and to the Sub-Commission at the forty-sixth session. It also decided to request the Secretary-General:

GE.92-13573/0499K (E)

(a) To transmit once again to the Governments, intergovernmental organizations and indigenous peoples' organizations which attended the tenth session of the Working Group the questionnaires submitted by the Special Rapporteur in 1990 (E/CN.4/Sub.2/1990/42, annex VI) requesting them, if they had not done so, to provide the information requested in the questionnaire, if possible not later than 15 May 1993;

(b) To give the Special Rapporteur all the assistance necessary to allow him to continue his work, in particular by providing for the specialized research assistance required and for the necessary trips to Geneva for consultations with the Centre for Human Rights.

The Sub-Commission also decided to recommend to the Commission on Human Rights that it request the Economic and Social Council to endorse the above-mentioned decision.